

**76-5b-202. Sexual exploitation of a vulnerable adult -- Offenses.**

- (1) A person is guilty of sexual exploitation of a vulnerable adult if the person:
- (a) (i) (A) knowingly produces, possesses, or possesses with intent to distribute material that the person knows is vulnerable adult pornography; or
  - (B) intentionally distributes or views material that the person knows is vulnerable adult pornography; and
  - (ii) the vulnerable adult who appears in, or is depicted in, the vulnerable adult pornography lacks capacity to consent to the conduct described in Subsection (1)(a); or
  - (b) is a vulnerable adult's legal guardian and knowingly consents to, or permits the vulnerable adult to be, sexually exploited as described in Subsection (1)(a).
- (2) Sexual exploitation of a vulnerable adult is a third degree felony.
- (3) It is a separate offense under this section:
- (a) for each vulnerable adult depicted in the vulnerable adult pornography; and
  - (b) for each time the same vulnerable adult is depicted in different vulnerable adult pornography.
- (4) It is an affirmative defense to a charge of violating this section that no vulnerable adult was actually depicted in the visual depiction or used in producing or advertising the visual depiction.
- (5) In proving a violation of this section in relation to an identifiable vulnerable adult, proof of the actual identity of the identifiable vulnerable adult is not required.
- (6) This section may not be construed to impose criminal or civil liability on:
- (a) any entity or an employee, director, officer, or agent of an entity, when acting within the scope of employment, for the good faith performance of:
    - (i) reporting or data preservation duties required under any federal or state law;
- or
- (ii) implementing a policy of attempting to prevent the presence of vulnerable adult pornography on any tangible or intangible property, or of detecting and reporting the presence of vulnerable adult pornography on the property; or
  - (b) any law enforcement officer acting within the scope of a criminal investigation.

Enacted by Chapter 320, 2011 General Session